

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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2178 ATLANTIC REALTY LLC, *et al.*,

Appellants,

- against -

MEMORANDUM AND ORDER
20-CV-1278 (RRM)

2178 ATLANTIC AVENUE HOUSING
DEVELOPMENT FUND CORPORATION,

Appellee.

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ROSLYNN R. MAUSKOPF, Chief United States District Judge.

For a second time, appellants (also referred to in this action and herein as the Goldstein Affiliates), seek a stay of proceedings in the Bankruptcy Court pending resolution of this appeal. And for the second time, this Court finds no merit in appellants' application.

Styled as both a motion to stay and a motion for a temporary restraining order, the relief requested is predicated on appellant's belief that the Bankruptcy Court erred in extending the period for the debtor's right of redemption based on extraordinary circumstances. Appellant is unlikely to succeed on the merits of that claim for two reasons. First, as the debtor notes, appellant seeks relief from what appears to be an interlocutory order. As the Bankruptcy Court noted, allowing appeals from interlocutory extensions has the potential to wreak havoc on the orderly progress of bankruptcy proceedings.

Even assuming this court can hear the appeal, appellant has not, as of this juncture, demonstrated a likelihood of success on the merits. While this Court has not yet had the opportunity of full briefing on the appeal, Judge Stong's bench opinion is well-reasoned and articulates the many reasons why extraordinary circumstances exist in this matter including, but not limited to, the actions of the Goldstein Affiliates in both the underlying foreclosure action

and the bankruptcy action, as well as further encumbering the property with an additional mortgage. These actions, among other factors, posed additional challenges to the debtor's ability to meet the state court's deadline to redeem the property at issue. Also compelling here is the fact that the extension granted by Judge Stong would likely allow the debtor to successfully emerge from bankruptcy while allowing appellants to be paid in full. Moreover, during the appellants are the beneficiaries of certain protections, in the form of regular rent payments, insurance, and others, designed to protect appellants interests during the period of extension. On balance, the equities of the status quo disfavor granting a stay or temporary restraint in favor of appellants.

The Court appreciates zealous advocacy by attorneys on behalf of their clients, particularly in true emergencies. However, the Court will not countenance advocacy for the sake of delay. Throughout this litigation, both here and before the Bankruptcy Court, appellants have changed counsel, and sought stays or other relief, on the eve of critical proceedings. Indeed, this is the second time that Mr. Doberman appears for appellants on this appeal, having been relieved shortly after the filing of the instant appeal, only to be reinstated on the eve of the hearing to consummate the plan, and to file this application. In addition, and most recently, one of the Goldstein Affiliates and an appellant herein -- Atlantic Realty -- sought bankruptcy protection in the Southern District of New York on the eve of the hearing in the Eastern District Bankruptcy Court to consummate the debtor's plan, notwithstanding the fact that Atlantic Realty had withdrawn its objection to the very same plan and consented to the return the subject property back to the debtor. The Southern District Bankruptcy Court noted its concerns about forum shopping and delay, and transferred the petition to join the underlying bankruptcy matter before Judge Stong.

The instant application appears to be nothing more than yet another effort to delay the proceedings before the Bankruptcy Court. Indeed, it is a second bite at the same apple before this court. It fares no better the second time around.

The motion is hereby DENIED.

SO ORDERED.

Dated: Brooklyn, New York
June 26, 2020

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
Chief United States District Judge